A Copy of the Late Lord Chief Juſtice Pollexfen's *Opinion, which he gave Mr.* Richard Murray, *in the Year* 1686, *when he oppoſed the Reading of the Scoteh Decree in the Court of* Chancery *in* Ireland, *as being no Evidence to be admitted.*

TITLES to Lands in *Ireland*, ought to be tryed by the Laws of *Ireland*, and not by the Civil-Law, or Laws of *Scotland*, or any other Countrey, and to admit the Judicature of any other Kingdom to have a Right to try Titles to Lands in *Ireland*, is to the Diſinheriſon of the King and his Crown of *Ireland*, and of the Subjects of *Ireland* of their Birth-right.

Though Crimes committed in *Scotland*, or other Foreign Kingdom, ſhould not be puniſhable by the Laws of *England* or *Ireland*, though by a Subject of *England* or *Ireland* committed; but be puniſhable in *Scotland*, or ſuch Foreign Kingdom, by the Laws of that Kingdom, if a Sentence or Judgment be given in ſuch Cauſe in any Foreign Kingdom, that Sentence, except in Maritime Caſes, ſhall have no Effect in *England* or *Ireland*; it ſhall not attaint the Blood, or cauſe any Forfeiture or Diſability, ſuppoſe it be for Murther, or Felony, or the like.

The Laws of *England* and *Ireland* admit of divers ſorts of Tryals in particular Caſes, as by Certificate of *Marſhall*, Mayor of *Burdeaux*, and many other in particular Caſes, mentioned in Abbot of *Strat Marchelloer*, *Cap. Rep.* 9. 31, 32. but never admitted Mens Eſtates to be tried by Laws or Judicatures of other Countries; no Book or Caſe, I ſuppoſe, ever admitted ſuch a Tryal: Therefore if this had been a Sentence or Decree in *Scotland*, in a Criminal Proceeding, for Forging theſe Deeds there, that Sentence or Proceeding ought to have no Effect here.

If in a Tryal of Forgery, upon an Indictment or Information, a Deed be found Forged, it ſhall be damned, this Tryal is concluſive, and while that Verdict or Judgment ſtands, no other Court ought to ſuffer that Deed to be inſiſted on as a true Deed, it hath had its legal Tryal.

But this Proceeding in *Scotland* is not Criminal, for then there would have been ſome Fine or Puniſhment inflicted, beſides deſtroying the Deed, upon the Offender, none is mentioned.

There is no Caſe (except only whereupon Indictment or Information of Forgery) wherein any Proceeding on any Deed or Will is declared Forged, the Parties ſhall at Law be thereby debarred from uſing it.

Suppoſe a Deed in *Chancery*, *Court of Requeſt*, formerly, or in the *Eccleſiaſtical Court*, or a Will concerning Lands and Goods, ſhall be Decreed or pronounced againſt, as aforeſaid, the Party Entitled to any Land by ſuch Deeds or Will, ſhall not thereby be debarred, but have his Tryal *Per Pares*, by the Law of the Land; and in ſuch Tryal, ſuch Decree is no Evidence; ſo that if as much Authority or Credit ſhould be given to this Scottiſh Proceeding, as to any Proceeding in any Court, not Proceeding according to the Common Law, it can neither be a Bar, nor admitted as Legal Evidence, the Reaſons are evident.

Every Country hath its Municipal Laws, Rules and Methods, but different one from another; the Subject of each Country hath their Eſtates and Properties by their Reſpective Laws; their own, not other Laws, are their Rules; to make the Laws of one Country interpoſe and take place in another, muſt break and confound the Laws and Rules of that Country. This Caſe, of their Law in *Scotland* concerning Forgery, is a ſufficient Inſtance, for if by the Law there, a Deed that hath not the Place where made, Witneſſes in the Body of the Deed be to be taken as Forged; 'tis no Wonder, that though the Deeds in queſtion, made according to the Laws of *Ireland*, be there condemned as Forged; but it is then moſt plain, he that hath an undoubted Title by the Law of *Ireland*, ſhall loſe his Eſtate, becauſe his Deeds not made according to the Law of *Scotland*; ſo that I think the Sentence is to have no Effect as to Evidence, or otherwiſe to effect the Title to a Free-hold in *Ireland*.

HEN. POLLEXFEN.
Junij 5°. 1686.

SUppoſe a Forgery in *Scotland*, of a Deed for Lands in *Ireland*, be a Crime only puniſhable in *Scotland*, yet this Deed, if Publiſhed in *Ireland*, the Publiſhing it in *Ireland* is a Crime puniſhable by Indictment in *Ireland*, and without Publiſhing, no uſe can be made of it.

H. P.

A COPY of the Late Lord Chief Juſtice *Pollexfen*'s Opinion, which he gave Mr. *Murray*, in the Year 1686, when he oppoſed the Reading of the Scotch Decree in the Court of *Chancery* in *Ireland*, as being no Evidence to be admitted.

Brocke
Murray
Proofs
1686
13.